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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/399,873	09/20/1999	FRANK FADO	6169-95	2778

7590 05/21/2003

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EXAMINER

ARMSTRONG, ANGELA A

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/399,873

Applicant(s)

FADO ET AL.

Examiner

Angela A. Armstrong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Prosecution Application

1. The request filed on March 06, 2003, for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/399,873 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Applicant has provided evidence in this file showing that the invention was owned by, or subject to an obligation of assignment to, the same entity as US Patent No. 6,324,499 at the time this invention was made. Accordingly, US Patent No. 6,324,499 is disqualified as prior art through 35 U.S.C. 102(e), (f) or (g) in any rejection under 35 U.S.C. 103(a) in this application. However, this applied art additionally qualifies as prior art under another subsection of 35 U.S.C. 102 and accordingly is not disqualified as prior art under 35 U.S.C. 103(a).

Applicant may overcome the applied art either by a showing under 37 CFR 1.132 that the invention disclosed therein was derived from the inventor of this application, and is therefore, not the invention "by another", or by antedating the applied art under 37 CFR 1.131.

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3. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being obvious over Lewis et al (US Patent No. 6,324,499), herein after referred to as Lewis, in view of Kawada et al, JP41009184A, herein after referred to as Kawada.

Lewis discloses methods, a system and machine-readable storage for responding to noises in a speech recognition system.

Regarding claims 1 and 7, Lewis provides monitoring a system of a computer, a computer user and the environment, detecting background noises, environmental noises and computer noises which may occur while a person uses a voice recognition application program, identifying the noises that occur and performing an action or task in response to the identified noise of the system at col. 1, line 55 continuing to col. 2, line 36, which reads on “computer system” and “component” of the system. Lewis discloses identifying and recording of non-speech sounds at col. 4, lines 20-23 and lines 49-53, which reads on “recording a silence sample” and “recording an isolated noise sample while operating a computer system component in isolation from other computer system components”. Lewis also discloses determining when a randomly occurring noise selected from a group of noises has been received at col. 4, lines 24-25, which reads on “attributing said isolated noise sample to said isolated computer component”.

Lewis does not specifically teach comparing the sounds to a preset threshold in determining which randomly occurring noise has been received. In a similar field of endeavor, Kawada teaches comparing the power level of an input signal to a threshold value and determining if the signal is sound or silence if the power level exceeds or falls below a set threshold (section entitled Solution), which reads on “comparing signal characteristics of a silence sample with signal characteristics of said isolated noise sample” and “said signal

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characteristics of said silence sample differ by a preset threshold from said signal characteristics of said isolated sample”. Kawada teach that such a system is advantageous in preventing a sound detector from misjudging increased and sustained noise levels as desired sound signals (section entitled Problem to be Solved).

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the noise recognizer in the speech recognition system of Lewis to provide for distinguishing between sounds and silence using a comparison based on a threshold criteria, as taught by Kawada, for the purpose of preventing the speech recognition system from misjudging increased and sustained noise levels as desired sound signals, as suggested by Kawada.

Regarding claims 2 and 8, Lewis teaches everything as claimed in claim 1. Additionally, Lewis teaches identifying and recording of randomly occurring noises at col. 4, lines 20-23 and lines 49-53, which reads on “logging said signal characteristics of said silence sample and said isolated noise sample”. Lewis also discloses determining when a randomly occurring noise selected from a group of noises has been received at col. 4, lines 24-25, which reads on “reporting excess noise identified in said identifying step”. Lewis further discloses mapping or assigning a predefined action to be performed if a randomly occurring noise has been identified at col. 1, line 66 continuing to col. 2, line 8 and col.4, lines 59-62, which reads on “suggesting a remedy for said identified excess noise”.

Regarding claims 3-6 and 9-12, Lewis teaches everything as claimed in claim 1. Additionally, Lewis teaches that the noises to be detected are selected from the group consisting of keyboard noises, breathing noises and a telephone ringing at col. 5, lines 4-6, which reads on “creating a list of computer system components to be tested for excess noise”.

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Lewis teaches identifying and recording of a group of randomly occurring noises at col. 5, lines 1-6; col. 4, lines 20-23, and col. 4, lines 49-53, which reads on “recording an isolated noise sample while operating a computer system component in said created list according said corresponding method”.

Lewis does not specifically teach a particular method for testing for excess noise. In a similar field of endeavor, Kawada teaches comparing the power level of an input signal to a threshold value and determining if the signal is sound or silence if the power level exceeds or falls below a set threshold (section entitled Solution), which reads on “comparing signal characteristics of a silence sample with signal characteristics of said isolated noise sample” and “said signal characteristics of said silence sample differ by a preset threshold from said signal characteristics of said isolated sample”. Kawada teach that such a system is advantageous in preventing a sound detector from misjudging increased and sustained noise levels as desired sound signals (section entitled Problem to be Solved).

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the noise recognizer in the speech recognition system of Lewis to provide for a method for testing a component for excess noise, as taught by Kawada, for the purpose of preventing the speech recognition system from misjudging increased and sustained noise levels as desired sound signals, as suggested by Kawada.

Additionally, Lewis teaches mapping or assigning a predefined action to be performed if a randomly occurring noise has been identified at col. 1, line 66 continuing to col. 2, line 8 and col. 4, lines 59-62, which reads on “suggesting said corresponding remedy for said identified excess noise in each said computer system component in said created list”.

Response to Arguments

4. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that the Disclosure provides support for recording an isolated noise sample while operating a computer system component in isolation from other computer system components at Figure 1, page 3; Figure 2, page 4; and page 4, item 3. The Examiner disagrees and argues that the Disclosure may provide support for subsequent components being tested, but does not provide support for the component being operated in isolation.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 703-308-6258. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

Angela A. Armstrong
Examiner
Art Unit 2654

AAA
May 17, 2003

Marsha D. Banks-Harold
MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
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